

TAX FLASH NEWS

1 April 2020

CBDT issues order to provide relief with respect to lower or nil TDS/TCS certificates in view of COVID-19

Due to outbreak of pandemic COVID-19 virus, there is a disruption in the normal working of the income-tax department. In such a scenario the applications filed by the payees¹ and by the buyer/licensees/lessees² for lower or nil rate of deduction/collection of tax for Financial Year (FY) 2020-21 have not been attended in a timely manner by tax officers (AO), causing hardship to taxpayers. To mitigate this hardship, the Central Board of Direct Taxes (CBDT) has issued following directions:

Scenario	Clarification/directions
<ul style="list-style-type: none"> Taxpayer has filed application for lower or nil deduction of TDS/TCS on the TRACES Portal for FY 20-21 Such application is pending for disposal as on date. The lower/Nil deduction TDS/TCS certificate has been issued for FY 2019-20 	<ul style="list-style-type: none"> The certificate issued for FY 2019-20 would be applicable till 30 June 2020 or disposal of their application by TDS/TCS AO, whichever earlier.
<ul style="list-style-type: none"> Taxpayer could not apply for issue of lower or nil deduction of TDS/TCS certificate in the TRACES Portal for FY 2020-21. The lower/Nil deduction TDS/TCS certificate has been issued for FY 2019-20 	<ul style="list-style-type: none"> The certificate issued for FY 2019-20 will be applicable till 30 June 2020. However, taxpayer need to apply at the earliest giving details of the transactions and the deductor/collector to the TDS/TCS AO as per the prescribed procedure³ as soon as normalcy is restored or 30 June 2020, whichever is earlier.
<ul style="list-style-type: none"> Where the taxpayer has not applied for issue of lower or nil deduction of TDS/TCS in the TRACES Portal. Taxpayer did not have any such certificate for FY 2019-20. 	<ul style="list-style-type: none"> A modified procedure⁴ for application and consequent handling by the TDS/TCS AO has been laid down in the order.
<ul style="list-style-type: none"> On payments to non-residents (including foreign companies) having Permanent Establishment (PE) in India and not covered by first two scenarios. 	<ul style="list-style-type: none"> Tax is to be deducted at the rate of 10 per cent (including surcharge and cess) on such payments till 30 June 2020 or disposal of their applications, whichever is earlier.

¹ Under Section 195 and 197 of the Act

² Under Section 206C(9) of the Act

³ Annexure

⁴ Annexure

Our comments

The relief provided by CBDT with respect to lower or nil deduction/collection certificate is a welcome move. This will ensure seamless continuity of payments to contractors, service providers, etc. both resident as well as non-resident.

Further the relief measures provided by the government are very useful for cash flow management of both resident as well as non-resident taxpayers in the present circumstances.

On payments to non-residents (including foreign companies) having Permanent Establishment (PE) in India (not covered by specific scenarios), tax is required to be deducted at the rate of 10 per cent till 30 June 2020 or disposal of their applications, whichever is earlier. Thus, such non-residents need to evaluate their business transactions appropriately to comply with these new conditions.

Annexure

Modified procedure for application for Lower/Nil Deduction Certificate

The applicant shall apply for the lower/nil deduction⁵/collection certificate⁶ vide an email to the Assessing Officer (AO) concerned. The email shall contain the following data/documents:

- Duly filled in Form 13 (Annexure I and/or Annexure III)
- The documents/information as required to be uploaded on TDS-CPC website while filling up Form 13
- Projected Balance Sheet and P&L account of FY 2020-21
- Provisional Balance Sheet and P&L account of FY 2019-20
- Balance Sheet and P&L account of FY 2018-19
- Form 26AS⁷ for FY 2019-20 and 2018-19
- Income Tax Return pertaining to FY 2018-19

Further, for issue of certificates for lower/nil deduction of tax⁸, the process of furnishing of applications will continue to be same with the modification that the applications will be filed via email and certificates will also be issued via email.

Issuance of certificate

The certificates shall be issued up to 30 June 2020 or any other date (earlier than 30 June 2020) as specified by the AO. The AO shall communicate the issuance of certificate via email. The issuance of certificate shall be communicated to the applicant who in turn shall share the same with the deductor/collector.

⁵ Under Sections 197 of the Act

⁶ Under Section 206C(9) of the Act

⁷ Tax Credit Statement

⁸ Under Section 195(2) and 195(3) of the Act

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